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Attorneys for Defendant
LOUISE BAYLES-FIGHTMASTER

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

MARK ANDREWS,

Plaintiff,

V.

14 CALIFORNIA DEPARTMENT OF
15 CONSUMER AFFAIRS, SONOMA COUNTY
16 DEPARTMENT OF CHILD SUPPORT
17 SERVICES, CALIFORNIA DEPARTMENT OF
MOTOR VEHICLES, CALIFORNIA BUREAU
OF AUTOMOTIVE REPAIR, LOUISE BAYLES
FIGHTMASTER, KIRK GORMAN, KATHY
SIMON, and DOES 1 through 20,

Defendants.

CASE NO. 17-CV-00252-WHO

**[PROPOSED] ORDER GRANTING
DEFENDANT LOUISE BAYLES-
FIGHTMASTER'S MOTION TO DISMISS
FIRST AMENDED COMPLAINT**

Date: July 19, 2017

Time: 2:00 p.m.

Courtroom: 2, 17th Floor

Judge: Hon. William H. Orrick

Action Filed: January 17, 2017

On July 19, 2017, the Court heard oral argument on defendant Commissioner Louise Bayles-Fightmaster's motion to dismiss. Having considered the papers submitted and arguments made, and for the reasons discussed below, the Court GRANTS the motion to dismiss WITHOUT LEAVE TO AMEND.

BACKGROUND

26 Plaintiff Mark Andrews is a party to a dissolution action and family law/child support
27 proceedings brought in the Superior Court of California, County of Sonoma. (*Andrews v. Andrews*,
28 Case No. SFL15804.) As best as can be discerned from the pleadings, a judgment or order for child or

1 family support was issued against Plaintiff. Plaintiff failed to comply with the judgment or order.
2 Plaintiff allegedly received notice from two licensing boards notifying him that his license would be
3 suspended pursuant to California Family Code section 17520 et seq. According to the pleadings,
4 Plaintiff appeared at a hearing in the state court in September 2013 requesting that his licenses be
5 released to him, which was denied. He appeared at another hearing in February 2014 and his licenses
6 were released to him in March 2014.

7 Defendant Louise Bayles-Fightmaster is sued in her role as a Commissioner for the Superior
8 Court who presided over a child custody contempt calendar and made rulings in Plaintiff's case. The
9 remaining allegations are asserted against other government entities and individuals who were involved
10 in the state court proceedings or other proceedings relating to Plaintiff's licenses.

11 Based on generalized allegations of civil rights violations in connection with the suspension of
12 his licenses, Plaintiff seeks declaratory relief and \$100 million in damages against defendants.

13 ANALYSIS

14 The Court finds that it lacks subject matter jurisdiction on any of the grounds urged by Plaintiff
15 under 42 U.S.C. § 1983 because such official-capacity suits against state officials such as Commissioner
16 Bayles-Fightmaster are barred by the Eleventh Amendment to the United States Constitution (U.S.
17 Const. amend. XI; *See Kentucky v. Graham*, 472 U.S. 159, 169-70 (1985)). Nor is Commissioner
18 Bayles-Fightmaster a proper party to a 42 U.S.C. § 1983 action. *Wolfe v. Strankman*, 392 F.3d 358,
19 364-65 (9th Cir. 2004).

20 The Court further finds that it lacks subject matter jurisdiction because the First Amended
21 Complaint challenges prior state court decisions in 2013 and 2014 and, as such, is barred by the *Rooker-*
22 *Feldman* doctrine. Alternatively, this Court declines to intervene in ongoing state court child custody
23 proceedings based upon abstention doctrines and the absence of allegations warranting such
24 interference.

25 The Court further finds that the First Amended Complaint rests entirely on allegations that
26 Commissioner Bayles-Fightmaster performed adjudicative acts for which she is entitled to absolute
27 judicial immunity from suit and civil damages liability.

28 The Court further finds that Plaintiff's First Amended Complaint filed in 2017, arising out of

1 Commissioner Bayles-Fightmaster's adjudicative activities in 2013 and 2014, is barred by the applicable
2 statute of limitations.

3 Any state law claims are further barred on the grounds that Plaintiff did not allege compliance
4 with applicable claims statutes. The Court further declines to exercise supplemental jurisdiction in order
5 to reach and entertain any purported state law claims against Commissioner Bayles-Fightmaster.

6 Plaintiff does not otherwise state facts sufficient to state a plausible claim upon which relief may
7 be granted against Commissioner Bayles-Fightmaster. Nor are there allegations establishing a present
8 and actual controversy to support a claim for declaratory relief.

9 **CONCLUSION**

10 For all of the foregoing reasons, Commissioner Bayles-Fightmaster's motion to dismiss the First
11 Amended Complaint is GRANTED. Because this Court has determined that the defects identified in
12 this Order would not be cured by amendment, the Court grants the motion WITHOUT LEAVE TO
13 AMEND.

14 **IT IS SO ORDERED.**

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16 Dated: _____

17 WILLIAM H. ORRICK
18 United States District Judge
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CERTIFICATE OF SERVICE

I, the undersigned, declare as follows:

I am a citizen of the United States and employed in the County of Alameda; I am over the age of eighteen years and not a party to the within entitled action; my business address is Jarvis, Fay, Doporto & Gibson, LLP, 492 Ninth Street, Suite 310, Oakland, California 94607.

On May 16, 2017, I served the within:

[PROPOSED] ORDER GRANTING DEFENDANT LOUISE BAYLES-FIGHTMASTER'S MOTION TO DISMISS FIRST AMENDED COMPLAINT

(X) (By First Class Mail) I caused this envelope, with postage thereon fully prepaid, to be placed in the United States mail to be mailed by First Class mail at Oakland, California, to:

**Mark T. Andrews
3436C Mendocino Avenue
Santa Rosa, CA 95403**

Plaintiff in pro per

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 16, 2017, at Oakland, California.

/s/
Chelsea L. Torres